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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,423	01/03/2001	Neil L. McClure	391327	3122

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EXAMINER	
FRANKLIN, JAMARA ALZAIDA	
ART UNIT	**PAPER NUMBER**
2876	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/754,423	MCCLURE ET AL.	
	Examiner	Art Unit	
	Jamara A. Franklin	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-39 is/are pending in the application.

4a) Of the above claim(s) 21-27 is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-20 and 28-39 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 21-27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 6/21/04.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

3. Claim 14 is objected to because of the following informalities:

in claim 14, line 1, substitute "12" with --13--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3-5, 7-10, 13-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Bayer et al. (US 6,311,190).

Bayer teaches an electronic voting system for use in elections, comprising:

a controller configured with an interactive menu system permitting a poll worker to preside over an election;

electronic ballot information stored on said system;

at least one voting station coupled with said controller to form a network;

said voting station having an electronically configurable display for presenting indicia representative of said electronic ballot information to voters;

a member selected from the group consisting of a mobile memory and a telecommunications connection for transferring said ballot information between an election administration station (17) and said controller (col. 6, lines 15-27);

program logic for disseminating selected portions of the electronic ballot information between the controller and the voting station on a voter-specific basis to facilitate cooperable interaction between the voting station and the electronically configurable display during the election (col. 15, lines 2-31);

wherein said voting station is programmed with voter logic for navigating through said indicia to present a voter with a ballot focus comprising a single selected ballot element;

wherein the ballot focus changes format for visual presentation to the voter when selected;

wherein said ballot focus is selected from the group consisting of darkened ballot elements, ballot elements having a changed font, and ballot elements having a changed color (col. 6, lines 29-33);

wherein said electronic ballot information had a data structure formed as a hierarchy of pages;

wherein said electronic ballot information comprises a plurality of different ballot styles and said program logic included logic for assigning a selected ballot style to a particular voter according to eligibility to vote in a predetermined selection of elections;

wherein said controller includes a voter access code generator for voter entry at said voting station, said voter access code being unique on said system during a single election (col. 22, lines 47-54 and col. 28, lines 5-25); and

wherein said voter access code generator generates a voter access code that is substantially dissimilar to other voter access codes currently assigned for use on said system to prevent voters from mistakenly entering an erroneous voter access code.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bayer in view of Davis, III et al. (US 5,583,329) (hereinafter referred to as 'Davis').

The teachings of Bayer have been discussed above.

Bayer lacks the teaching of a liquid crystal display.

Davis teaches an electronically configurable display as a liquid crystal display (col. 4, line 66- col. 5, line 4).

One of ordinary skill in the art would have readily recognized that providing the Bayer invention with a liquid crystal display would have been beneficial for providing the voter with a means for clearly and precisely discerning the ballot images being presented. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Bayer with the liquid crystal display as taught by Davis.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being obvious over Bayer in view of McClure (US 6,250,548) (hereinafter referred to as 'McClure').

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C.

102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

The teachings of Bayer have been discussed above.

Bayer lacks the teaching of machine instructions permitting interactive configuration of said voting station prior to opening of polls for election.

McClure teaches a controller which contains machine instructions permitting interactive configuration of said voting station prior to opening of polls for election purposes, said interactive configuration including manipulation of user input devices by a poll worker in said voting stations as prompted by said controller (col. 38, lines 19-37 and col. 42, lines 12-35).

One of ordinary skill in the art would have readily recognized that the interactive configuration of voting stations prior to opening of polls would have been beneficial to the Bayer

invention since a poll worker would then be able to test the voting station to ensure proper operation. Therefore, it would have been obvious, at the time the invention was made, to modify Bayer with the aforementioned element of McClure so that the voting system would not be compromised.

10. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayer in view of Willard (US 5,821,508).

The teachings of Bayer have been discussed above.

Bayer lacks the teaching of a disabled access unit.

Willard teaches a voting station selectively configured with a disable access unit; wherein said disable access unit includes audio system for replicating said electronic ballot information and adaptors configured for coupling with special controls for physically challenged persons (see abstract).

One of ordinary skill in the art would have readily recognized that the disable access unit would have been beneficial to the Bayer invention since it would afford equal-opportunity for anyone, regardless of physically impairment, to vote in an election. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Bayer with the disables access unit as taught by Willard.

11. Claims 28-33 and 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayer in view of Huhn (US 3,941,976).

The teachings of Bayer have been discussed above.

Bayer lacks the teaching of a user input area including a rotary input device.

Huhn teaches a user input area including a rotary input device for voter interaction as ballots are cast (col. 6, lines 18-21).

One of ordinary skill in the art would have readily recognized that a rotary input device would have been beneficial to the Bayer invention as one of a variety of different ways to input data into the voting station. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Bayer with the rotary input device of Huhn to serve as an alternative means to casting one's vote.

12. Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayer/Huhn as applied to claim 28 above, and further in view of Willard.

The teachings of Bayer/Huhn have been discussed above.

Bayer/Huhn lack the teaching of a disabled access unit.

The teachings of Willard have been discussed above.

One of ordinary skill in the art would have readily recognized that the disable access unit would have been beneficial to the Bayer/Huhn invention since it would afford equal-opportunity for anyone, regardless of physically impairment, to vote in an election. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Bayer/Huhn with the disables access unit as taught by Willard.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamara A. Franklin whose telephone number is (571) 272-2389. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jamara A. Franklin
Examiner
Art Unit 2876

JAF
September 1, 2004

KARL D. FRECH
PRIMARY EXAMINER